

PROPERTY ASSESSMENT APPEAL BOARD
FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER

PAAB Docket No. 2017-077-10239R

Parcel No. 070/00949-000-000

412 Aurora Avenue Trust (Levi Freeman, Trustee),

Appellant,

vs.

Polk County Board of Review,

Appellee.

Introduction

The appeal was submitted for written consideration before the Property Assessment Appeal Board (PAAB) on November 21, 2017. Trustee Levi Freedman represented 412 Aurora Avenue Trust. Assistant Polk County Attorney Mark Taylor represented the Board of Review.

412 Aurora Avenue Trust (Trust) owns a residential property located at 412 Aurora Avenue, Des Moines. The property's January 1, 2017 assessment was set at \$57,300, allocated as \$12,500 in land value and \$44,800 in dwelling value. (Ex. A).

The Trust petitioned the Board of Review asserting its property was assessed for more than authorized by law and that there was an error in the assessment, asserting the property's condition was below normal, under Iowa Code sections 441.37(1)(a)(1)(b & d). The Board of Review modified the assessment by reducing the property's dwelling value, resulting in a total assessment of \$37,700.

The Trust reasserts its claim of overassessment to PAAB.

General Principles of Assessment Law

PAAB has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2017). PAAB is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case.

§ 441.37A(1)(b). PAAB considers only those grounds presented to or considered by the Board of Review, but determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount.

§§ 441.37A(1)(a-b). New or additional evidence may be introduced, and PAAB considers the record as a whole and all of the evidence regardless of who introduced it.

§ 441.37A(3)(a); *see also Hy-Vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* Conversely, sale prices of abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the factors that distort market value, including but not limited to foreclosure or other forced sales. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2).

Findings of Fact

The subject property is a one-story home built in 1946. It has 667 square feet of gross living area and a one-car detached garage built in 1998. The dwelling is listed in

poor condition with a 5+10 grade (below-average quality) rating. The site is 0.111 acres. (Ex. A).

Freedman submitted a letter to PAAB stating the subject property was purchased in February 2017 for \$21,000. (Ex. 3). Freedman further notes there were multiple offers prior to the sale and the highest offer was accepted. He states the property was not in good condition and repairs and remodeling were completed on the subject property after the purchase. Because there was no significant change in the condition of the property between the date of sale and assessment date, Freedman believes the sale price represents the fair market value of the subject property as of January 1, 2017. (Ex. 3). The purchase is noted on the property record card. (Ex. A).

Other than the subject's property record card, the Board of Review did not submit any additional evidence.

Analysis & Conclusions of Law

The Trust asserts its property is over assessed.

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(1)(b), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995).

Under section 441.21(1)(b), the subject property's purchase price is to be considered in arriving at its market value but does not conclusively establish market value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289, 290 (Iowa 1996). However, in this case, there is no evidence in the record to indicate this was a normal transaction or that it is indicative of the subject property's actual market value as of January 1, 2017. For this reason, PAAB declines to rely solely on the sale price and finds the Trust has failed to support its claim that the subject property is assessed for more than authorized by law.

Freedman notes that since the sale, the Trust repaired and remodeled the subject property. As such, the Assessor may wish to re-inspect the property prior to the next assessment cycle.

Order

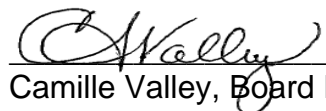
PAAB HEREBY AFFIRMS the Polk County Board of Review's action.

This Order shall be considered final agency action for the purposes of Iowa Code Chapter 17A (2017). Any application for reconsideration or rehearing shall be filed with PAAB within 20 days of the date of this Order and comply with the requirements of PAAB administrative rules. Such application will stay the period for filing a judicial review action.

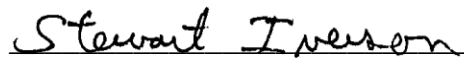
Any judicial action challenging this Order shall be filed in the district court where the property is located within 20 days of the date of this Order and comply with the requirements of Iowa Code sections 441.38; 441.38B, 441.39; and Chapter 17A.



Karen Oberman, Board Member



Camille Valley, Board Member



Stewart Iverson, Board Chair

Copies to:

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Polk County Board of Review by eFile